

Brief Communication

Setting the law into motion: Documenting a case as a medico-legal case

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Abstract

In day-to-day clinical practice, medico-legal cases (MLC) are frequently encountered by medical practitioners. In these cases, many times there is confusion regarding registering a case as a MLC. After registering a case as a MLC, many have confusion regarding sending information to the police or magistrate. Herein, we discuss the issues related to registering the MLC, intimating the MLC to police, scope of making a case nil-MLC, and consequences if not informed to the police or magistrate.

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1. Introduction

Medico-legal cases (MLC) are an integral part of medical practice, which are frequently encountered by medical practitioners. Any person either injured or whose life is under threat due to some disease or poisoning will rush to a doctor to save one's life. Hence, it is the doctor who first comes across the patient after such incidents.

The Indian law mandates a person to inform the nearest police station or magistrate about the occurrence of the crime, and the doctor who examines the patient first to issue the certificate. But, many medical practitioners are in confusion regarding the cases which are to be registered as MLC and when to inform the police or magistrate and this issue is debated in many scientific forums. Herein, we discuss these issues.

2. Section 43, Indian Penal Code (I.P.C.): Illegal, legally bound to do.¹

The word "illegal" is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

3. Section 39, Criminal Procedure Code (Cr.P.C.): Public to give information of certain offences.²

The offences which are mandatory to inform by any public include:

- Offences against the state such as waging war against the Government; sedition towards the Government; assaulting the President, Governor, etc.
- Offences against the public tranquility
- Offences relating to illegal gratification

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- Offence of theft after preparation made for causing death, hurt or restraint in order to the committing of the theft
- Offences relating to adulteration of food and drugs, etc.
- Offences affecting life
- Offence relating to kidnapping for ransom, etc.
- Offences of robbery and dacoity
- Offence relating to criminal breach of trust by public servant, etc.
- Offence of mischief against property
- Offences of house trespass
- Offences relating to currency notes and bank notes

4. Offences to be informed to police by a doctor.

According to a textbook³, the following cases are to be intimated to the police by the doctor:

- Assault and battery, including domestic violence, abuse of child and woman
- Accidents like road traffic accidents, industrial accidents, etc.
- Cases of trauma with suspicion of foul play
- Poisoning, alcohol intoxication
- Undiagnosed coma
- Burns, scalds, chemical and electrical injuries
- Sexual offences, criminal abortions
- Attempted suicide
- Cases of asphyxia as a result of hanging, drowning, suffocation, etc.
- Bites by snake, scorpion, dog, pig, etc.
- Unnatural deaths, custodial deaths, death in the operation theatre
- Firearm injuries
- Drug overdose, drug abuse

We suggest that in all the above cases, the doctor shall make an entry into the MLC register but one should not volunteer to inform the police unless the injured person wants to do so, if he/she is in conscious state.

If such an injured person dies under treatment, then it is mandatory to inform the police. In cases which are brought dead to the casualty or death occurring within 24 hours of hospitalisation, whether natural or unnatural cause, one should inform the police to rule out any foul play.

5. Mode and manner of sending the information.⁴

In the law, there is no description as to the mode of sending the information of a MLC. Though the usual practice of sending the information is in writing, other modes like telephone, mobile call, oral and SMS can also be used. The investigating officer should not expect the information to be only in writing.

6. Private vs. Government doctor with respect to sending the information.

Many textbooks of forensic medicine mention that there is no need for a private doctor (doctor who is not working in a Government set up) to send information to the police or magistrate while treating a case of attempted suicide unless death occurs.⁵⁻⁸ But, in the law, there is no such discrimination as to a private or Government doctor with respect to sending the information.

7. When does the sending of information cease?⁴

Sending information to the concerned ceases when said information reaches the concerned in some or the other way, which means when the investigating agency has already come to know about it in some or the other way then there is no need to inform again.

8. Scope of making a case nil-MLC.

Legally there is no scope for the practice of the so called nil-MLC. Unfortunately it is practiced in most of the Government and private sector hospitals. Often in such cases, after having made nil-MLC one will not make an entry into the MLC register. Details of the case such as identification marks and pattern, distribution, size, and dimensions of the wounds etc. are not recorded. Later, when the investigating officer requests the doctor to issue necessary certificate to file a charge sheet, the doctor cannot say that he did not made the case as MLC. When asked by the investigating officer one has to issue the requested certificate irrespective of whether it is made MLC or not. This is the era of litigation; every case could be of medico-legal importance, although not apparently.

9. What to do?

It is suggested that in all such cases one shall make an entry of the necessary information in the accident register (MLC register) of the hospital, irrespective of whether the information is being sent to the police or not, so that necessary certificate can be issued to the needy, on requisition at a later date.

10. Punishment under I.P.C.¹

- *Section 176 I.P.C.*: Omission to give notice or information to public servant by person, legally bound to give it.
- *Section 201 I.P.C.*: Causing disappearance of evidence of offence or giving false information to screen the offender.
- *Section 202 I.P.C.*: Intentional omission to give information of offence by a person bound to inform.

- *Section 203 I.P.C.*: Giving false information, respecting an offence committed.

11. Conclusion

Based on the apparent examination findings and history furnished, a case can be considered fit to be registered as a MLC irrespective of whether the information is thereupon intimated to the police or magistrate depending upon the type of case and the circumstances leading to the causation of injury. Even when a case is not registered or documented as a MLC to begin with, information has to be furnished to the legal authorities if asked for.

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